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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

October 25, 2002
Jefferson City, Missouri
Volume 1

In the Matter of a Proposed)
Rulemaking to Consolidate) Case No.: AX-2001-654
Filing Requirements into a)
New Chapter 3.)

NANCY M. DIPPELL, Presiding,
REGULATORY LAW JUDGE.

CONNIE MURRAY,
STEVE GAW,
BRYAN FORBIS,
COMMISSIONERS.

REPORTED BY:

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25 Ellington Telephone Company.
Farber Telephone Company.
Goodman Telephone Company.
Granby Telephone Company.
Grand River Mutual Telephone
Corporation.
Green Hills Telephone Corp.
Holway Telephone Company.
Iamo Telephone Company.
Kingdom Telephone Company.
KLM Telephone Company.
Lathrop Telephone Company.
Le-Ru Telephone Company.
Mark Twain Rural Telephone Company.
McDonald County Telephone Company.
Miller Telephone Company.
New Florence Telephone Company.
New London Telephone Company.
Orchard Farm Telephone Company.
Oregon Farmers Mutual Telephone Co.
Ozark Telephone Company.
Rock Port Telephone Company.
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1 P R O C E E D I N G S

2 (Written Entries of Appearance filed.)

3 JUDGE DIPPELL: Good morning. We're probably
4 ready to just go ahead and jump into things, so I'll
5 get things turned on here and we can go ahead and
6 begin.

7 We're here today for a hearing in
8 Case No. AX-2001-654, In the Matter of Proposed
9 Rulemaking to Consolidate Filing Requirements into a
10 New Chapter 3.

11 These rules were -- have been published in the
12 Missouri Register. And today's date and time was set
13 for a public hearing on the rules.

14 We have received some comments -- written
15 comments on the rules. And today we're going to take
16 additional comments.

17 We're gonna begin with comments in support of
18 the rules and then we'll take comments opposing the
19 rules. If you have both comments in support and in
20 opposition, you can choose to speak at either time.
21 You can give your -- all of your comments at once.

22 And so I will ask the people speaking today,
23 we will go ahead and swear in witnesses, and that
24 includes if you're here as an attorney representing
25 someone else, I'll take your testimony under oath.

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1 We won't be having, like, regular opening
2 statements or anything, like we would in a normal
3 contested case. This will be operated a little more
4 like a local public hearing, because we're really here
5 to hear just comments on this -- on this rulemaking.

6 I think we'll just go ahead, then, and begin.
7 If there are attorneys who would like to make an entry
8 of appearance, I'll let you do that at this time. And
9 then if you want to speak and give comments, I'll swear
10 you in as a witness when you come up to do that.

11 So would Staff counsel like to make an entry
12 of appearance?

13 MR. SNODGRASS: Yes, Your Honor.

14 My name is Cliff Snodgrass. I represent the
15 Staff of the Missouri Public Service Commission. I'm
16 here today on Case No. AX-2001-654. I am not the star
17 witness here today, however, that task has befallen a
18 very capable person by the name of Dale Johansen.

19 JUDGE DIPPELL: Thank you.

20 Anybody else like to make an entry of
21 appearance?

22 Public Counsel?

23 MR. DANDINO: Yes, Your Honor. Yes, Your
24 Honor, eventually. Michael Dandino, Office of the
25 Public Counsel, Post Office Box 7800, Jefferson City,

1 Missouri 65102, representing the Office of Public
2 Counsel and the Public.

3 Your Honor, we have no witnesses, and Public
4 Counsel is offering no comments at this time.

5 Thank you.

6 JUDGE DIPPELL: Thank you.

7 Mr. Dority?

8 MR. DORITY: Thank you, Judge. Appearing on
9 behalf of Southwestern Bell Telephone, L.P. d/b/a
10 Southwestern Bell Telephone Company, let the record
11 reflect the appearance of Larry W. Dority, Fischer and
12 Dority, P.C. Our address is 101 Madison, Suite 400,
13 Jefferson City, Missouri 65101.

14 Your Honor, Southwestern Bell does not have
15 any witnesses here today to address the rules. They
16 did file comments in opposition to one of the proposed
17 rules for CSR 240-3.535.

18 And I would be happy to entertain and kind of
19 answer any questions that the Bench may have regarding
20 their comments.

21 Thank you.

22 JUDGE DIPPELL: Thank you.

23 Is there anyone -- any other attorneys who
24 need to make an entry of appearance before we begin
25 with comments?

1 MS. WHEELER: I'm Janet Wheeler. I'm here on
2 behalf of Brydon, Swearngen & England. I'm here on
3 Case No. AX-2001-654, P. O. Box 456 Jefferson City,
4 65102.

5 We've filed written comments and we have no
6 witnesses here today and have no official comments to
7 make.

8 JUDGE DIPPELL: I'm sorry. I couldn't hardly
9 hear that. Did you say you don't have any additional
10 comments?

11 MS. WHEELER: We have no additional comments
12 to make --

13 JUDGE DIPPELL: All right.

14 MS. WHEELER: -- and no witnesses.

15 JUDGE DIPPELL: All right. Thank you.

16 All right. Then we'll go ahead and begin with
17 comments. I know that Staff has some comments to make,
18 so we'll just go ahead and start with comments in
19 support of the rule.

20 Mr. Johansen, would you please raise your
21 right hand?

22 (Witness sworn.)

23 JUDGE DIPPELL: Thank you. You can just -- if
24 you'll state your name and --

25 MR. JOHANSEN: Sure.

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1 JUDGE DIPPELL: -- and spell it for the court
2 reporter, and then you can begin with your comments.

3 DALE JOHANSEN testified as follows:

4 MR. JOHANSEN: Okay. My name is Dale
5 Johansen, J-O-H-A-N-S-E-N. I'm the manager of the
6 Commission's Water and Sewer Department. And I've been
7 involved in the Chapter 3 rulemaking project since its
8 inception, actually.

9 Keep my comments brief this morning since we
10 have previously filed written comments. First thing I
11 would like to do, though, is draw the Commission's
12 attention to the reasons that we started this case.

13 Goes back to a motion to open case and finding
14 a necessity of a rulemaking, which was filed back on
15 May 23rd, 2001.

16 We basically stated three reasons in that
17 motion as the basis for the rulemaking. First of all,
18 many of our existing rules regarding filing reporting
19 requirements, which are many, are scattered throughout
20 the Commission's rules and are mixed in with rules that
21 are not related to filing and reporting requirements.

22 Because of this, it takes a lengthy search of
23 the Commission's rules to gain an understanding of our
24 reporting and filing requirements.

25 And consolidation of those filing and

1 reporting requirements into a single chapter, we
2 believe, will ease the burden on people trying to
3 identify exactly what is required of them when it comes
4 to reporting to the Commission or filing applications
5 with the Commission.

6 We believe that this particular project is a
7 necessary step in improving the organization of the
8 Commission's rules and that it will lessen the burden
9 on the various entities that do business with the
10 Commission.

11 And in that regard, we noted in our motion and
12 as also was clarified in the publication in the
13 Missouri Register that consolidation of the existing
14 filing and reporting requirements will not have a
15 fiscal impact on affected companies, individuals or
16 other entities that do business with the Commission,
17 because this project is not intended to change any of
18 our existing requirements, but simply to move the
19 filing and reporting requirements into a single
20 chapter.

21 And to put this another way, our arrangement
22 of the living room is not really going to cost any
23 outside entity anything, since we are not buying any
24 new furniture and we're using in-house movers for the
25 job.

1 Next thing I'd like to note is that we believe
2 the unsophisticated users of the rules and people that
3 don't have a lot of experience in dealing with the
4 Commission's rules, including some of our regulated
5 companies, other outside entities and outside
6 individuals and even new Staff members will certainly
7 benefit from having these filing and reporting
8 requirements in a single location.

9 With regard to my personal experience as
10 manager of the Water and Sewer Department, many of the
11 companies that we deal with are very small; they do not
12 have large knowledgeable Staff and they do not have
13 significant resources to hire outside help.

14 Also many of the outside entities and
15 individuals that we deal with in the Water and Sewer
16 Department have little or no experience with the
17 existing rules.

18 And because of these factors, there's really
19 no doubt in my mind as the manager of the Water and
20 Sewer Department that this project will greatly benefit
21 both the companies that we currently regulate,
22 companies that may be coming to us to become regulated
23 and other individuals that use the Commission's filing
24 and reporting requirements.

25 One of the last things I would note is that

1 the reasons for this project and the cost estimates
2 that were made regarding the project when it was
3 initiated have not changed today.

4 We still believe the reasons are valid and we
5 still believe that the cost estimates that were put
6 together of -- of essentially no fiscal impact are
7 valid today.

8 I would be glad to answer any questions from
9 the Bench. Also I would note that the Staff has
10 reviewed the written comments that were submitted by
11 other parties, and I'm also prepared to answer
12 questions from the Bench regarding those matters, if
13 you desire.

14 JUDGE DIPPELL: Thank you.

15 Commissioner Murray, do you have any questions
16 for Mr. Johansen?

17 COMMISSIONER MURRAY: Just briefly.

18 QUESTIONS BY COMMISSIONER MURRAY:

19 Q. Mr. Johansen, are -- is Staff going to propose
20 any changes as a regard -- in re-- as a result of any
21 of the comments that were received?

22 A. Yes, we have a few that we will. In
23 particular, there were some comments submitted by
24 Southwestern Bell Telephone in which they stated that
25 they believed one of the proposals rose to the level of

1 being a substantive change, rather than just simply
2 a -- a movement of the rules.

3 While there may be -- some argument could be
4 made whether or not the change is substantive or not,
5 we believe in the interest of moving this project
6 forward in a -- in a very smooth way that we will
7 probably suggest to you that the change that was
8 reflected in their comments be made.

9 And that has to do with -- if I recall
10 correctly, that has to do with an exemption for
11 competitive telecommunications companies on one of the
12 rules in particular.

13 Laclede Gas also filed some comments
14 specifically regarding certain definitions that were
15 contained in the -- in the rule on gas definitions.
16 And we will be suggesting that those definitions and
17 possibly some other ones be removed at this time.

18 The reason for that is that we made a change
19 in the rules that were actually published from May 1
20 when we initially submitted the rulemaking packet to
21 the Secretary of State until it was submitted for
22 publication on August 16th.

23 The change that was made there -- we removed
24 the rules that were -- were related to affiliate
25 transactions, because the original affiliate

1 transaction rules are currently under litigation.

2 They're in the court system. There's a challenge to
3 those.

4 So we didn't feel it was appropriate to leave
5 those -- to put those into Chapter 3 until that
6 litigation is resolved.

7 We simply overlooked the fact that we had
8 several definitions that related only to those
9 affiliate rules. So we agree with Laclede that -- that
10 those definitions should be removed.

11 There are also some similar definitions in the
12 rule regarding definition of terms that pertain to
13 electric that are also affected in this matter. And
14 we'll be suggesting that those be removed.

15 I believe those will be the main changes that
16 we'll be suggesting to you. The comments that Brydon,
17 Swearngen & England submitted also noted some
18 typo -- typographical type errors that were made.
19 We'll be reviewing those, making sure they're taken
20 care of.

21 There were some references that were included
22 in the rules that didn't get updated properly. We'll
23 be identifying those and -- and recommending that those
24 be changed as well.

25 Q. Okay. So, then, is it accurate to say that

1 the only real disagreement that remains is the general
2 comments of Brydon Swearengen that we just -- just
3 don't need to do that right now?

4 A. Correct.

5 COMMISSIONER MURRAY: Okay. Thank you.

6 JUDGE DIPPELL: Commissioner Gaw, did you have
7 any questions?

8 COMMISSIONER GAW: I think that -- I think
9 that my concerns have mainly been addressed.

10 QUESTIONS BY COMMISSIONER GAW:

11 Q. There was one -- you may have addressed this,
12 Mr. Johansen. There was one comment about ga-- the use
13 of the gas transmission line phrase.

14 Can you -- did -- did you already talk about
15 that or --

16 A. No, I did not.

17 Q. Then can you tell me --

18 A. Yeah.

19 Q. -- where we are with that?

20 A. If I can find the comments where those were
21 contained. I believe those were in the comments that
22 were submitted by Brydon, Swearengen & England.

23 They did question the inclusion --

24 Q. That's correct.

25 A. -- of gas transmission lines as -- in the

1 electric utility application for certificates of
2 convenience and necessity.

3 I can tell you inclusion of that term in that
4 rule was not an oversight on our part.

5 Q. Uh-huh.

6 A. We believe it -- that currently there are
7 situations where regulated electric corporations are,
8 in fact, building gas transmission lines.

9 Q. Okay.

10 A. And for that reason, they may very well need
11 to obtain a certificate. The way the rules are worded
12 an electric corporation building a gas transmission
13 line would not be required to get a certificate under
14 the gas rule.

15 So we left the term "gas transmission line" in
16 the electric certificate rule for that reason.

17 Q. All right. Does that -- does that make more
18 sense to you than -- than making some requirement that
19 they abide by the gas transmission line rules as a gas
20 company would?

21 A. I -- I think if we clarify possibly in -- in
22 the -- in the -- in the response that we will be filing
23 with the Secretary of State that this is why we're
24 leaving it here. I -- I personally think it makes more
25 sense to leave it here.

1 Q. Okay. Is the end result that -- that -- that
2 the requirements -- if -- if an electric company is
3 building gas transmission lines that the requirements
4 will be the same as it would be if they were a gas
5 company building those lines or not, if you know?

6 A. I believe the general requirements for a
7 certificate are both -- are the same for both.

8 Q. Yes.

9 A. There -- there's not -- there's not much
10 difference there, if any.

11 Q. All right.

12 A. So they will essentially be the same.

13 COMMISSIONER GAW: Okay. That's all I have.

14 Thank you.

15 JUDGE DIPPELL: Commissioner Forbis, did you
16 have any questions?

17 COMMISSIONER FORBIS: I don't think so. I
18 think you've -- you've hit everything I -- I had picked
19 on, too, Laclede's point and Bell's point. And there
20 is a lot of stuff in this Brydon, Swearengen response.

21 And I guess you guys are gonna work through
22 that and address all of the comments that they -- that
23 they made.

24 QUESTIONS BY COMMISSIONER FORBIS:

25 Q. They -- they talk some about -- oh, they

1 use -- added the phrase "must be submitted to
2 Commission personnel" several times throughout the --
3 A. Right.
4 Q. -- rule and they ask that we address that. Do
5 you have any -- that seemed to be one of the other
6 major substantive changes that they hit on.
7 Do you have any -- No. 14 in their response --
8 A. Okay.
9 Q. -- is what they were talking about.
10 Do you have any thoughts on that one? It's on
11 page 6. They -- they're claiming it's a new --
12 A. Okay. Yeah. Actually Laclede, I think
13 touched, on this --
14 Q. Did they? Okay.
15 A. -- in general as well. This rule and possibly
16 two or three other ones are simply being put into
17 Chapter 3 as a reference to other requirements that --
18 that exist elsewhere.
19 Q. Okay.
20 A. There is no intent that putting the rule in
21 Chapter 3 would make any change to the requirements
22 that are contained in the other rules. That -- that --
23 that intent is not there.
24 We did this simply, because it is a filing
25 requirement or a submission requirement, we wanted it

1 in Chapter 3. Basically all we're saying is, you need
2 to go here to see what you have to do.

3 There -- there is no intent to change the
4 existing requirements. And --

5 Q. And that will be hard --

6 A. -- we will clarify that.

7 Q. In our comments?

8 A. In -- in our suggested comments to the
9 Commission.

10 COMMISSIONER FORBIS: Okay. That was the only
11 thing I had, too.

12 Thank you very much.

13 JUDGE DIPPELL: Commissioner Murray?

14 COMMISSIONER MURRAY: Just a quick follow up
15 on that.

16 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

17 Q. What is -- how is -- what is at the phrase
18 "instead of Commission personnel" that is in the
19 current rule -- in the current rules?

20 A. I'm not quite sure where -- are you still on
21 that paragraph 14?

22 Q. Yes. And the comment that -- the use of the
23 phrase "must be submitted to Commission personnel" that
24 appears in several sections -- appears to be a new and
25 vague provision, and then they point out that

1 designated Commission personnel is a new definition

2 3.209?

3 A. Yeah. If you can give me a second to get that
4 the --

5 Q. Sure.

6 A. -- register here, I'll see if I can find how
7 that's used in context here.

8 I can -- I can say that the -- regarding the
9 definition of designated commerc-- Commission personnel
10 and the use of that term in the new rule we did feel
11 that it was better to have a definition of -- when we
12 make a reference to something being submitted to the
13 Staff, that we have a specific reference as to who we
14 mean.

15 It -- and in the context of this particular
16 rule and -- and as it relates to all of the pipeline
17 safety rules, which this rule relates to, that that's
18 why we included that definition in 3.209 was to make it
19 clear who we're talking about at (sic) the Staff that
20 should get the information.

21 Quite honestly, I don't have the related 4.030
22 in front of me, so I'm -- I'm not quite sure right now
23 exactly how the phrase as we use it in -- in this rule
24 might be different.

25 But we will certainly look at that and --

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1 and -- and clarify that as part of our comments.

2 MR. SNODGRASS: If it would help,
3 Commissioner, I happen to have that section that Dale
4 is referring to here, if I could hand it to him. Would
5 that assist in the question?

6 COMMISSIONER MURRAY: Yes, please.

7 MR. SNODGRASS: Thank you.

8 THE WITNESS: Quite honestly, this doesn't
9 help me right now, cuz I can't find what I'm looking
10 for, so -- I appreciate the effort, Cliff.

11 We will -- I'll -- we'll take a look at that
12 and make sure that there's not any conflicts. We -- we
13 certainly don't intend for there to be any conflicts.
14 I -- I know that for certain.

15 COMMISSIONER MURRAY: All right. Thank you.

16 JUDGE DIPPELL: Do you have any other -- other
17 questions?

18 (No response.)

19 JUDGE DIPPELL: All right. Thank you,
20 Mr. Johansen. You may step down.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 JUDGE DIPPELL: Are there any other comments
24 in support of the rulemaking?

25 (No response.)

1 JUDGE DIPPELL: All right. Then I will ask if
2 there are comments in opposition to the rulemaking?

3 (No response.)

4 JUDGE DIPPELL: All right. Are there any
5 additional Commissioner questions for any of the
6 parties who were represented here today regarding their
7 comments?

8 Commissioner Murray, did you have any?

9 COMMISSIONER MURRAY: Not unless counsel for
10 Brydon, Swearn-- not unless counsel for Brydon,
11 Swearngen can clarify that Section 14 -- or
12 paragraph 14 which Commissioner Forbis brought up.

13 JUDGE DIPPELL: Ms. Wheeler, would you be able
14 to --

15 MS. WHEELER: Mr. Duffy is not present and he
16 preferred to make those comments himself. I could just
17 generally address it.

18 JUDGE DIPPELL: Okay. Would you like to come
19 forward then?

20 MS. WHEELER: Yeah.

21 JUDGE DIPPELL: I'm gonna go ahead and swear
22 you in as a witness. You can just testify as to what
23 you know.

24 MS. WHEELER: Don't tell Gary Duffy.

25 (Witness sworn.)

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1 JANET WHEELER testified as follows:

2 MS. WHEELER: I think the -- the general
3 concern on the definition was that it kind of tied into
4 the time requirement element as well.

5 We didn't see any opportunity for telling
6 somebody when this had to be done. It said notify
7 designated Commission personnel.

8 QUESTIONS BY COMMISSIONER MURRAY:

9 Q. So it was --

10 A. In addition to knowing who the designated
11 Commission personnel were going to be, which we saw as
12 a new definition, as to when the timing of that would
13 have occurred.

14 Q. Okay. So it's more of a question of timing
15 and confusion as to who the Commission personnel
16 references?

17 A. Actually, Commissioner Murray, I believe it
18 was actually to both.

19 Q. Okay. And hearing the comments today made by
20 Mr. Johansen as to the changes that Staff was going to
21 propose, do you see this rule more palatable as a
22 result of these changes?

23 A. I'm a relatively new attorney and I'm a new
24 practitioner in the field of regulated utilities. This
25 was a -- a comprehensive assignment for me representing

1 a variety of different clients from our firm.

2 So as an initial segue for me personally
3 working through the rules, I found it to be a -- a
4 little more difficult in the reassignment of different
5 sections and to different places and defined
6 information, which I think is the comment that
7 Mr. Duffy made at the very beginning.

8 Q. And you found that -- that that would make it
9 more difficult than the way the rule was currently
10 struc-- the rules were currently structured?

11 A. That's the way I found it to be as a new
12 practitioner trying to go through this process.

13 Q. Okay. I think -- I think our goal is to make
14 it less -- less complicated and more clear as to -- to
15 which rules have to be followed when it is a
16 specific -- you know, whether it's a gas company,
17 electric.

18 A. I certainly found the intent to be understood.
19 But with some of the rearrangements of sections, I
20 didn't -- I didn't seem to see a -- a repetition or a
21 cadence to the reallocation of sections as I was going
22 back and forth and reviewing, you know, in detail every
23 single section.

24 For instance, all the .1 sections are
25 definitions, except for in some little places they are

1 the definitions. As a -- as a lay practitioner in
2 this, I would assume that 3.100 were definitions, the
3 3. 200 would be definitions and 3.300 would be -- or
4 4 -- 3.100, 200, 300 -- the one hundred series would
5 all be definitions.

6 And I didn't find that cadence to be there for
7 me as a practitioner. It seemed to be very simple
8 things. But from a practitioner standpoint and
9 having -- working with other rules in the environmental
10 area, you kind of look for that cadence of numbering.

11 Q. All right. Anything else that stood out as a
12 problem?

13 A. We -- we stand by the comments that we've
14 already submitted.

15 COMMISSIONER MURRAY: All right. Thank you.

16 THE WITNESS: Thanks.

17 JUDGE DIPPELL: Thank you.

18 Commissioner Gaw, did you have any additional
19 questions?

20 COMMISSIONER GAW: I have a ton of questions.

21 THE WITNESS: Oh.

22 COMMISSIONER GAW: No, I'm kidding. I'm
23 kidding.

24 THE WITNESS: You're gonna make my first time
25 here really hard.

1 JUDGE DIPPELL: Thank you very much.
2 (Witness excused.)
3 JUDGE DIPPELL: Commissioner Gaw, you had
4 some -- well, let me finish with Commissioner Murray.
5 We -- did you have any other parties you want
6 to hear from?
7 COMMISSIONER MURRAY: I don't believe so.
8 Thank you.
9 JUDGE DIPPELL: Thank you.
10 Commissioner Gaw, did that answer your
11 question?
12 COMMISSIONER GAW: I have a question -- I have
13 real quick. I just wanted to check with Mr. Dority and
14 make sure that the comments that he heard today
15 satisfied Bell's questions and comments.
16 MR. DORITY: Shall I step forward or how do
17 you want me to handle this, Judge?
18 JUDGE DIPPELL: Did -- did you have additional
19 comments you wanted to make with -- in response?
20 MR. DORITY: No, thank you, Your Honor. And,
21 Commissioner Gaw, we would not have any additional
22 comments. I appreciate what -- what Mr. Johansen
23 offered this morning.
24 And I think that would satisfy the concerns
25 that the company expressed. As they indicated in their

1 final comments, they are supportive of the general
2 restructure.

3 I have one instance that I gave when we filed,
4 and I think Mr. Johansen has addressed that this
5 morning.

6 COMMISSIONER GAW: Thank -- thank you,
7 Mr. Dority.

8 And, Public Counsel, do you have any problem?

9 MR. DANDINO: I have no problem.

10 COMMISSIONER GAW: The only thing if I could
11 just follow up with -- with Staff about the -- the
12 latest comments from -- from Brydon, Swearengen.

13 FURTHER QUESTIONS BY COMMISSIONER GAW:

14 Q. Do you all have something that might -- and do
15 you think there's some way of improving that that would
16 make that -- make that flow a little better?

17 MR. SNODGRASS: I think Mr. Johansen will
18 respond to those questions, Commissioner, if it's
19 appropriate.

20 COMMISSIONER GAW: How-- however you want to.

21 JUDGE DIPPELL: Go ahead and come forward,
22 Mr. Johansen.

23 (Mr. Johansen returned to the stand.)

24 DALE JOHANSEN, having been previously sworn, testified
25 as follows:

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1 MR. JOHANSEN: Specifically in regard to
2 the -- the comments on the flow of the rules, if you
3 will, that the -- the -- the first rule in every --
4 in -- in every block, if you will, is a definition
5 rule.

6 There are some of the industry-specific
7 blocks, as I call them, that do not require definition
8 rules, because all of the terms that are used in that
9 block are defined in the general definition rule at the
10 front of Chapter 3.

11 So that's the reason that the first rule in
12 every industry block is not a definition rule. Some of
13 them don't require a separate definition rule.

14 I -- we -- we looked at that, quite honestly,
15 and -- and that's originally the way we had it set up.
16 And then we got to looking at it and go, well, we don't
17 have any other terms we need to define because they're
18 all in the -- in the general definition rule.

19 QUESTIONS BY COMMISSIONER GAW:

20 Q. Okay.

21 A. So that -- that's the reason that -- for that
22 minor inconsistency between the industry blocks.

23 Q. Okay.

24 A. The other thing I think that -- back on the
25 paragraph 14 that Ms. Wheeler was talking about, the

1 confusion about when the submission of certain things
2 must occur.

3 There certainly is no intent to change what
4 the rules in Chapter 40 require as far as timing is
5 concerned. And we'll -- we will look at the new
6 Chapter 3 rules and -- and see if we think there's any
7 clarification needed on that.

8 COMMISSIONER GAW: That's all I have.

9 JUDGE DIPPELL: Any additional?

10 COMMISSIONER GAW: No. Thank you.

11 JUDGE DIPPELL: You had another, Commissioner
12 Murray?

13 Go ahead.

14 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

15 Q. On the definition sections, the -- it appears
16 that the 100 sections for each industry are
17 definitions, except for steam heating and water?

18 A. That's correct. Yeah. And those two
19 particular -- as -- as I them industry blocks, all the
20 terms that are used in there are in the General
21 Definition Rule at the beginning of Chapter 3, which
22 I -- I think is 3.010, possibly.

23 Q. That is a general definition section.

24 A. There -- there were no industry-specific
25 definitions in addition to those general definitions

1 that were necessary for those two industry areas.

2 That's why the first rule in those blocks are
3 not a definition rule.

4 Q. And for the other industries, are any of those
5 general definitions repeated in their specific
6 sections?

7 A. I don't think so. They're not supposed to be.

8 COMMISSIONER MURRAY: All right. Thank you.

9 JUDGE DIPPELL: I have one --

10 THE WITNESS: Okay.

11 JUDGE DIPPELL: -- for you, Mr. Johansen.

12 QUESTION BY JUDGE DIPPELL:

13 Q. You -- you've been working pretty closely with
14 the Secretary of State's Office as far as formating --

15 A. Yes.

16 Q. -- these rules; is that correct?

17 And are you aware of any restriction or
18 preference that -- that the Secretary of State's Office
19 would have in publishing rules if -- if the -- if
20 the -- in the review the Commission should decide that
21 maybe some renumbering scheme or something were
22 necessary, do you know right now if there would be any
23 opposition to that at this --

24 A. I don't think there would be, but we can
25 certainly check with them and see.

1 My understanding is that whatever changes the
2 Commission proposes as part of its final order of
3 rulemaking, as long as it's justified based upon the
4 comments or -- or it -- just in general that -- that
5 will -- will not be a problem. We can --

6 Q. So the Staff will look at that in --

7 A. Sure.

8 Q. -- in looking at the structuring of it and
9 determine if that's a possibility?

10 A. Yes, we will do that.

11 JUDGE DIPPELL: Thank you. You may step down
12 again.

13 THE WITNESS: Okay.

14 (Witness excused.)

15 JUDGE DIPPELL: I believe that that is all of
16 the questions. If there are no other comments -- I
17 don't see anyone wanting to make any comments.

18 So I appreciate you all coming today and
19 participating. We will conclude this hearing.

20 You can go off the record.

21 Thank you.

22 WHEREUPON, the hearing of this case was
23 concluded.

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